

Instructions for the TrafficSoft Project Manager

Development of a state-of-the-art Traffic Management Center for ZDOT, the State ITS agency, was recently completed. TrafficSoft, Inc. was the software development contractor for the project. The contract contains the following language:

The contractor shall develop the software for the system.

Upon system acceptance by ZDOT, the contractor shall deliver and install the software in the ZDOT Traffic Management Center.

Upon conclusion of the contract, ZDOT will own and operate the traffic management software.

You are the Project Manager for TrafficSoft. You successfully completed the software development and your company has now fulfilled all its contract obligations on the project.

In spite of the project's technical success, you lost money on it. This was due, in part, to ZDOT, your customer. Throughout the project, there was requirements creep resulting in changes that went beyond the initial scope of the project. However, there was no corresponding budget relief in the fixed-price contract. Several of the changes resulted in considerable design re-work and were the main reason for the slip in the schedule. Seemingly simple changes rippled throughout the software. During system acceptance testing, the customer effectively imposed additional requirements on the system, by coming up with new tests for the system to pass. In effect, the customer got additional features "for free", while you incurred the additional costs of keeping staff on the job.

You have accepted the losses you incurred on this contract to establish a good reputation in the field. From the outset, you have intended to re-use the software you develop as a competitive advantage for winning future contracts in other states.

But now the customer is taking steps that could effectively put you out of business. ZDOT want rights to the software beyond those called for in the contract. ZDOT wants you to deliver the source code for the software you developed so they can give it away to agencies (your potential customers) in the three neighboring states. Nothing in the contract requires you to deliver source code; you wouldn't have signed a contract that did. The result would be that your intellectual property would be made available to your competitors who work for those states. The program manager is even insisting upon the right to give away the source code for your proprietary incident detection algorithms. These are the ones that you previously developed on your company's internal R&D funds before the start of the project.

The contract was for development only and did not include maintenance. Up until now, you have provided free telephone support, but you cannot afford to continue doing this without some reimbursement. Finally, your license agreement was for a single operational version of the

software and does not give the ZDOT the right to make an unlimited number of copies of the software. As with the purchase of a book, the customer has the right to use; not the right to make copies or to distribute.

You are about to enter a final meeting with the customer. Your company would be pleased to provide additional support at a reasonable price. However, you are adamant that you are not going to give away your software or services for free. In your opinion, it's the customer's last opportunity to show that they didn't sign the contract in bad faith. They shouldn't expect you to incur losses because of ZDOT budget cuts.